That was all that was decided in that case on the issue of illegality; it turned mainly on the inadequacy of the pleadings by the defendant. It is therefore not an authority in support of the appellant's case.

There is one further difficulty in the way of the appellant's case which is even more formidable and seems to us to be insurmountable. And it is this. The appellant's claim that the respondent held the said shares on trust for him – whether on the basis of a resulting trust arising in his favour by reason of the voluntary transfer or on the basis of the blank share transfer and the board resolution – is one founded on equity. In seeking the assistance of the Courts to enforce this equity, the appellant must come with clean hands; one of the maxims of equity is that he who comes into equity must come with clean hands. In this connection, it is necessary to examine the past conduct of the appellant immediately antecedent to the transaction that gave rise to the trust; plainly on his past conduct the appellant fails to satisfy the test required of him in equity. On the finding of fact of the learned Judge, which Mr. Hague accepted without reserve, the appellant in transferring the said shares to the respondent without any payment by the latter had practised a deception on the public administration. The part played by him in this deception had soiled his hands and he can hardly except the Court to give effect to and enforce the trust in his favour. In *Groves* v. *Groves*[8] the plaintiff alleged that the property in question was conveyed without consideration to a grantee and claimed for the return thereof, basing his claim on a resulting trust arising by operation of law. The claim was dismissed on the ground, *inter alia,* that the original conveyance was made for an illegal purpose. The Lord Chief Baron on this point said, at p. 174 [148 E.R. p. 1141]:

"When a grantor, so far as he can, completes the transaction for an illegal purpose, and leaves it in the power of the grantee, during his whole life, to make, at his pleasure, the illegal use of the gift originally intended, he deserves all the consequences attached to the illegality of his act. If the crime is not completed, the merit is not his, and therefore, in such a case, I should not think myself bound to relieve him, against the heir of the grantee. The plaintiff asks for equity and does not come with clean hands to receive it."

Lastly, Mr. Hague argued that the administrative guidelines of the Registrar of Ships, Singapore, were in direct conflict with Section 369 of the Merchant Shipping Act (Cap. 172) at the relevant time and the company was entitled under the Act to have the vessel registered whether or not its majority shareholding was vested in Singaporeans. The short answer to this is that even if the guidelines were *ultra vires,* the appellant was nevertheless not justified in resorting to a deception to achieve his end. We agree entirely with the view of the learned Judge that in such an event he ought to have pursued his legal remedies by an appropriate procedure.

Accordingly, the appeal is dismissed with costs. There will be the usual consequential order for payment to the respondent or his solicitor of the amount paid into Court by the appellant as security for costs of the respondent.

Appeal dismissed.

Solicitors: *Chung & Co.; Chor Pee & Co.*

CHAN HENG WAH & ANOR. v. PEH THIAM CHOH & ANOR.

[O.C.J. (Chua J.) September 3, 1985]

[Singapore – Suit No. 1189 of 1982]

Damages – Quantum – Fatal accident – Deceased a medical undergraduate – Lost years claim allowed – Civil Law Act (Cap. 30), s.8 – Law Reform (Miscellaneous Provisions) Act 1934 (U.K.), s.1.

Damages – Lost years – Method of calculation discussed.

The deceased Chan Sui Keng, a twenty-year old second year medical student in the University of Singapore, was killed when the car in which she was travelling and driven by her brother collided with a taxi driven by the first defendant. The deceased's father as administrator of the deceased's estate (first plaintiff) claimed damages for lost years. The father (second plaintiff) also claimed special damages for the loss of the use of his car. The defendants admitted liability (90% in respect of the first defendant and 10% of the second defendant). Both parties agreed on quantum of damages with respect to loss of expectation of life ($6,500), funeral expenses ($3,000) and loss of the use of the car ($600).

The deceased had only completed her first year examinations to qualify as a doctor.

The court had to decide the quantum of the claim by the Estate for "lost years" which section 8 of the Civil law Act (Cap. 30) entitles the Estate to claim by virtue of the case of *Gammel* v. *Wilson.*[1]

Held; (1) to the first plaintiff: $3,000 for funeral expenses; $6,500 for loss of expectation of life and $125,000 for lost years;

(2) to the second plaintiff: $600 for the loss of the use of the car;

(3) no interest should be awarded on damages in running down cases. As regards the special damages no interest ought to be awarded. The defendants had not delayed in any way in the conduct of this case.

[*Editorial Note*: The method of calculation for lost years is discussed in detail in the Judgment and the appendix thereto.]

Cases referred to:

(1) *Gammell* v. *Wilson* [1981] 2 W.L.R. 248.
(2) *Low Kok Tong* v. *Teo Chan Pan* [1982] 2 M.L.J. 299.
(3) *Lai Chi Kay & Ors.* v. *Lee Kuo Shin* [1981] 2 M.L.J. 167.
(4) *White & Anor.* v. *London Transport Executive* [1982] 1 W.L.R. 791.
(5) *Harris* v. *Empress Motors Ltd.* [1984] 1 W.L.R. 212 [1983] 3 All E.R. 561.
(6) *Adsett* v. *West* [1983] 2 All E.R. 985.
(7) *Ban Pet Hock* v. *Ong Ah Ho* [1966] 2 M.L.J. 253.

CIVIL SUIT.

Leslie Chew (*Veronica Lim (Miss)* with him) for the plaintiffs.

Christopher Lau (*Choo Wai Hong (Miss)* with him) for the 2nd defendant.

Abdul Rashid bin Abdul Gani for the 1st defendant.

Cur. Adv. Vult.

Chua J. : Miss Chan Sui Keng, a second year medical student in the University of Singapore, was travelling in a car EB 6061P driven by her brother Chan Yew Weng (second defendant) along Ang Mo Kio Avenue 6 in the direction of Marymount Road on July 31, 1980, at about 7 a.m. when at the junction of Ang Mo Kio Avenue 6 and Ang Mo Kio Avenue 5, a motor taxi driven by the first defendant along Ang Mo Kio Avenue 5 in the direction of Ang Mo Kio Avenue 10 collided into the car EB 6061P. Miss Chan Sui Keng (deceased) was killed in the accident.

This accident has given rise to this claim by the deceased's father as administrator of the deceased's estate (first plaintiff) for damages arising out of this fatal accident for what has become known nowadays as a "lost years" claim. The father (second plaintiff) has also claimed special damages for the loss of the use of his car EB 6061P.

The two defendants have admitted liability – 90% in respect of the first defendant and 10% the second defendant. The parties have also agreed on the quantum of damages – (a) loss of expectation of life – $6,500; (b) funeral expenses – $3,000; and (c) loss of use of the car – $600.

The first plaintiff claims:

(1) $2,125,866 damages for the lost years based on the multiplicand of $106,293.30 and a multiplier of 20;
(2) loss of pension of $95,932.40;
(3) loss of gratuity of $35,974.65;

making a total in damages of $2,257,773.00.

All that is left in this case is for me to decide the quantum of the claim by the Estate for "lost years" which section 8 of our Civil Law Act entitles the Estate to claim by virtue of the case of *Gammell* v. *Wilson*[1] decided by the House of Lords based on section 1 of the Law Reform (Miscellaneous Provisions) Act 1934 of England which section is *in pari materia* with our section 8 of the Civil Law Act. All but one of the Law Lords in that case recognised the injustice of the interpretation to be given to section 1 of the Law Reform (Miscellaneous Provisions) Act 1934 and felt constrained to call for legislative intervention to reform the law in this regard.

Lord Diplock in *Gammell's* case in his opening speech said (p. 250 F):

"My Lords, I understand your Lordships to be at one in holding that both these appeals must be dismissed. I am of the same opinion – reluctantly, because I do not think that this outcome is either sensible or just."

In the course of his judgment he said (p. 253 D):

"My Lords, if the only victims of fatal accidents were middle-aged married men in steady employment living their lives according to a well-settled pattern that would have been unlikely to change if they had lived on uninjured, the assessment of damages for loss of earnings during the lost years may not involve what can only be matters of purest speculation. But as the instant appeals demonstrate and so do other unreported cases which have been drawn to the attention of this House, in cases where there is no such settled pattern – and this must be so in a high proportion of cases of fatal injuries – the judge is faced with a task that is so purely one of guesswork that it is not susceptible of solution by the judicial process. Guesses by different judges are likely to differ widely – yet no one can say that one is right and another wrong."

He ended his judgment saying (p. 253 F):

"Where Parliament has intervened by passing the Fatal Accidents Acts, the law relating to damages for death

recoverable by dependants is sensible and just with the possible exception of the case of widows who have re-married or become engaged to do so by the time the action is heard. I join with your Lordships in thinking that it is too late for anything short of legislation to bring the like sense and justice to the law relating to damages for death recoverable by the estate of the deceased."

Lord Edmund-Davis said (p. 258 E):

"My Lords, the assessment of compensation for the "lost years" rests upon no special basis of its own and it proceeds on no peculiar principle. It may present unusual difficulties, but the task itself is the ordinary one of arriving at a fair figure to compensate the estate of the deceased for a loss of a particular kind sustained by him in his lifetime at the hands of the defendant."

He ended his judgment saying (p. 258 H):

"On general principles, this House will interfere only where an assessment of damages is perverse or it appears from the amount awarded that it was arrived at on an incorrect principle. I take leave to doubt that I should have awarded the plaintiffs in Furness as high a sum as £15,547 for the "lost years". But here again I see no error in principle, and, while counselling moderation in assessing such claims so as to reflect the high degree of speculation inevitably involved, I am not prepared to hold that the award calls for adjustment.

My Lords, in the result I would dismiss the appeal in each of these cases."

Lord Fraser said (p. 259 C):

"It is no doubt just and sensible that, where the death of the family breadwinner is caused by the negligence of some other person, that person should be liable to compensate the deceased's dependants for the injury which they have suffered from the death. The main element of injury will normally be loss of support. But it seems to me difficult to justify a law whereby the deceased's estate, which may pass to persons or institutions in no way dependent upon him for support, can recover damages for loss of earnings, or other income, which he would probably have received during the "lost years". It is particularly difficult to justify the law in cases such as the present, in each of which the deceased was a young man with no established earning capacity or settled pattern of life. In such cases it is hardly possible to make a reasonable estimate of his probable earnings during the "lost years" and it is, I think, quite impossible to take the further step of making a reasonable estimate of the free balance that would have been available above the cost of maintaining himself throughout the "lost years," and the amount of that free balance is the relevant figure for calculating damages. The process of assessing damages in such cases is so extremely uncertain that it can hardly be dignified with the name of calculation; it is little more than speculation. Yet that is the process which the courts are obliged to carry out at present.

In my opinion, the unhappy state into which this part of the law of England has fallen can now be corrected by legislation on lines similar to that recently enacted for Scotland, for much the same reason, in the Damages (Scotland) Act 1976; see section 2(3) (b) and section 9. The amount of damages awarded in both cases seems to me high, but having regard to the uncertain basis of assessment which I have mentioned, I do not feel able to say that they proceed upon any error of principle. I would therefore not interfere with them.

I would dismiss both appeals."

Lord Russell of Killowen in ending his speech said (p. 262 A):

"My Lords, I regret these decisions (dismissing the appeals). I think that the law has gone astray by excessive refinement of theory. I would welcome legislation which overruled in the future the results of the decision in *Pickett* [1980] A.C. 136 and its extension in cases such as the present which since *Pickett* has led to almost grotesque embodiment of estimates, or rather guesses."

Lord Scarman said (p. 265 D):

"The correct approach in law to the assessment of damages in these cases presents, my Lords, no difficulty, though the assessment itself often will. The principle must be that the damages should be fair compensation for the loss suffered by the deceased in his lifetime. The appellant in *Gammell's* case was disposed to argue by analogy with damages for loss of expectation of life, that, in the absence of cogent evidence of loss, the award should be a modest conventional sum. There is no room for a "conventional" award in a case of alleged loss of earnings of the lost years. The loss is pecuniary. As such, it must be shown, on the facts found, to be at least capable of being estimated. If sufficient facts are established to enable the court to avoid the fancies of speculation, even though not enabling it to reach mathematical certainty, the court must make the best estimate it can. In civil litigation it is the balance of probabilities which matters."

The legislative reform called for by the Law Lords was carried out by the Administration of Justice Act 1982 with the result that damages recoverable under section 1 of the 1934 Act for the benefit of the estate of a person who died on or after January 1, 1983, shall not include any damages for loss of income in respect of any period after that person's death.

Our Court of Appeal in *Low Kok Tong* v. *Teo Chan Pan*[2] has called for similar legislative reform.

The first plaintiff relies entirely on the case of *Lai Chi Kay & Ors* v. *Lee Kuo Shin*[3] for the method of quantification for loss of earnings during the lost years where I said (at p. 171):

"In my view the reasonable and fair basis to ascertain his loss of future earnings would be a sum representing the mean between the maximum and minimum salaries in the Hong Kong Medical Service."

In my view the calculation of the mean based on *Lai Chi Kay's* case is not appropriate, fair and reasonable in the present case.

Lai Chi Kay's case was concerned with the assessment of the loss of future earnings of a living plaintiff whereas we are here concerned with the assessment of a claim for "lost years". The assessment of each of those claims proceeds on an entirely different basis, where entirely different considerations are involved.

Lord Scarman in *Gammell's* case said (p.265 H):

"The problem in these cases, which has troubled the judges since the decision in *Pickett's* case (1980) A.C. 136 has been the calculation of the annual loss before applying the multiplier (*i.e.*, the estimated number of lost working years accepted as reasonable in the case). My Lords, the principle has been settled by the speeches in this House in *Pickett's* case. The loss to the estate is what the deceased would have been likely to have available to save, spend, or distribute after meeting the cost of his living at a standard which his job and career prospects at time of death would suggest he was reasonably likely to achieve. Subtle mathematical calculations based as they must be on events or contingencies of a life which he will not live, are out of place: the judge must take the best estimate based on the known facts and his prospects at time of death."

In *White & Anor.* v. *London Transport Executive,*[4] on the question of what was the proper basis on which compensation for the lost years should be assessed, it was held by Webster J. (headnotes):

"(1) That, since the Law Reform (Miscellaneous Provisions) Act 1934 did not create a cause of action but merely preserved for the benefit of the deceased at the time of his death, the damages to be assessed could only be for the deceased's lost years' earnings and not the loss to the estate of the surplus from such earnings that would have been available to it at the end of his natural life; that likewise the damages to be proved was not the surplus of the deceased's earnings which he would have been likely to save, which was probably nil and, in any event, a calculation or assessment of pure speculation.

(2) That compensation for the lost years was properly regarded as compensation for the loss of the amenity of earning more than was necessary to live a reasonably satisfying and potentially enjoyable life, taking into account the particular circumstances of the deceased; that the loss was represented by the difference between the deceased's prospective net earnings and the cost of his maintaining himself and providing facilities appropriate to attaining that standard of life; and that, moreover, the surplus must be large enough to cover a substantial part of the cost of maintaining a family."

In *Harris* v. *Empress Motors Ltd.*[5] the Court of Appeal approved the decision in *White* v. *London Transport Executive*. It was held that in calculating the sum to be deducted for living expenses when assessing the net loss of earnings for the lost years, the ingredients constituting the deceased's living expenses were the same irrespective of the deceased's age, marital status or number of dependants; that the sum to be deducted as those living expenses was the proportion of net earnings the deceased would have spent to maintain himself at his standard of living and did not include savings or sums spent exclusively for the maintenance or benefit of others but where there were shared living expenses a *pro rata* proportion should be deducted; that, accordingly, the correct approach to the calculation of the deceased's living expenses was not to make an assessment of those expenses as would be done for the purposes of calculating a dependency under the *Fatal Accidents Act 1976,* but to assess as a percentage the available surplus after deducting from the net earnings the cost of maintaining the deceased in his station of life.

I have now to look at the deceased and see what her real prospects might have been. As she did not have actual employment at the time of her death I have to determine her prospective net earnings.

The deceased was 20 years old at the date of the accident. She had very good results in her "O" Level and "A" Level. She was interviewed by the Public Service Commission for a President's Scholarship but she was unsuccessful. However, she was awarded a Government Scholarship of $2,500 *per annum* to study Medicine at the University of Singapore for a period of five academic years and she was bonded for eight years.

At the date of the accident she had only completed her first year examinations. Her results were not very good, at best it was average.

There is no evidence of her other abilities. Apart from her school achievements she appeared to be rather an average person.

Lord Diplock in *Gammell's* case in his speech observed (p. 253) that in a case of a person settled in life it is easy to find what his income is, but the problem usually arises in cases where a person has not yet embarked on a career, which is the present case where the deceased had only completed her first year examinations to qualify as a doctor.

The question arises as to whether, on the evidence before me, there is real prospect of the deceased qualifying as a doctor. She had another five annual examinations to take before she qualifies as a doctor.

The deceased no doubt had very good results for her "O" Level and "A" Level but this same level of excellence was not shown in her first year medical examinations. Does this result perhaps indicate that she had no aptitude for medicine and that she had not chosen the right profession? The first plaintiff thus wants me to speculate that the deceased would have qualified as a doctor. I think the probabilities are that she would have qualified as a doctor.

The first plaintiff then asks me to determine the deceased's income on the basis of mean between a Medical Officer's salary and that of Grade A Superscale salary which gives an average of $9,992.96 without taking Specialist Allowance into account for which he is requesting for a further sum of $1,750. That works out to the salary of just below Grade D 1 of a Superscale Medical Officer ($11,016.89) and that of Superscale D ($9,720.78). This in effect means that the deceased is given this salary from the day she joined the Medical Service. This cannot be right and it clearly shows the fallacy of following the mean between the maximum and minimum scales in this case. It does not take into account the high degree of speculation that the deceased would attain Superscale D 1 or even Superscale D.

The proper approach in this case, it seems to me, that should be taken in assessing the multiplicand is to consider the prospect of an average doctor who may reach the Registrar level and no higher.

I am asked to consider Specialist Allowance which the deceased might earn. Specialist Allowance under the Medical Scheme is only given to a doctor with a recognised post-graduate qualification. For a Registrar it is $500 per month. It would be highly speculative as to whether the deceased would in fact go on to obtain post-graduate qualifications. In my view it should not be included in the deceased's prospective earnings.

The first plaintiff also claims for pension and gratuity. In my view it should not be allowed as it is highly speculative and too remote. The deceased might not live to 60 years of age; she might have married, have children and resign from the Service and go into private practice.

It is not disputed that living expenses have to be deducted. The problem is how to determine the living expenses. The first plaintiff has put before me figures and calculations for food, rent/mortgage interest, utilities, car, clothes, holidays and annual tax payable, which I presume are his own estimates. The total deduction suggested is the sum of $67,114.12.

I have already set out what Lord Scarman said in *Gammell's* case regarding the problem of "living expenses" (p. 265 H). In *White* v. *London Transport Executive* Webster J. said (p. 800 A):

> "The House of Lords have quite clearly laid down that living expenses at the very least are to be deducted from the deceased's net earnings. At the same time they have laid down that the award is not to be a conventional one. The court therefore has to measure in pecuniary terms the loss of something which is less and appreciably less, than the deceased's prospective net earnings. What is that thing, the loss of which is to be measured? If it can be positively defined, as distinct from being deduced from what is left after certain not very precisely defined deductions are made, it seems to me that the thing, the loss of which has to be measured, is the amenity of earning more than is needed to live a reasonably satisfying and potentially enjoyable life, taking into account in each case the particular deceased person. Thus, for example, in this day and age the ordinary working man's life would not be regarded by him as reasonably satisfactory and potentially enjoyable if he could not afford a short holiday, a modest amount of entertainment and social activity and, depending on his particular circumstances, a car. And it seems to me, therefore, that the amenity which he is deemed to have lost is the difference between what would be the cost of maintaining himself and providing those facilities and his prospective net earnings; and in the cost of maintaining himself I include the cost of his housing, travelling and insurances and things of that kind, if relevant.
>
> Although it seems to me in some ways artificial to do so, for reasons I have already given it appears that he is to be treated for this purpose as an eternally single man, on the principle, I suppose, that the money he in fact spends on his family, if he has one, or if it is likely that he will have one, is money which would be available, after making provision for all the matters I have referred to, to be spent in other ways if he so desire; that is to say, if he were to prefer to spend it in other ways rather than to have a family. If he is to be treated in this way it must follow that, although the House of Lords, as I have mentioned, said that the award of damages should be moderate, his notional surplus must be large enough to cover at least a not insubstantial part of the cost of maintaining a family, for although in the case of a man in the deceased's circumstances it can be regarded as probable in normal circumstances that his wife, if he were to marry, would do some paid work from time to time, it cannot be supposed that she alone would pay for the housing and maintenance of the children."

Webster J. then went on to consider how in the circumstances of the case should the award be assessed and he said (p. 801 C):

> "Secondly, what would be the average available surplus in a case such as his, taking into account all the considerations I have mentioned in considering the positive definition of

that surplus and taking into account the facts that I have recited at the beginning of this judgment, in so far as they are relevant? In the light of those matters and of previous decisions, and with the assistance of judicial knowledge, in very broad terms, of the cost of living, and bearing in mind but not applying the sort of maintenance orders expressed as a percentage of net earnings which would be made in the Family Division in a case of this kind, had the deceased been married with a family, I infer that the average available surplus in a case such as that of the deceased, and in the deceased's own case, would be 25% of his net earnings."

This method for deduction of living expenses propounded by Webster J. was approved by the Court of Appeal in *Harris* v. *Empress Motors Ltd.* O'Connor L.J. said in his judgment (with which the other two Lord Justices agree) (p. 231 A):

"The judge then inferred that the available surplus would be one-third of the net income for five years until he left home and one-quarter for the remaining ten years' purchase, much as Tudor Evans J. had done in the *Furness* case. Save that I do not agree that the deceased is to be treated as an eternally single man and bearing in mind what I have said about joint expenditure and that the resulting awards were thought in *Gammell* v. *Wilson* [1982] A.C. 27 to be very high, this seems to me an acceptable way of arriving at the deduction to be made in cases of young persons. The reason for supporting this high rate of deduction in cases such as *White* v. *London Transport Executive* [1982] Q.B. 489, *Gammell* and *Furness*, is that the future is speculative and allowance has to be made for the fact that a man may never marry, may never save a farthing, may never support anybody; but when one is faced with the position in *Pickett* v. *British Rail Engineering Ltd.* [1980] A.C. 136, or in the present two cases, the position is entirely different. That which was speculative in *Gammell* to a very high degree is not speculative at all; that which is not to be deducted can be seen with reasonable clarity and, as one would expect, a very much smaller part of the net earnings will fall to be deducted."

In *Adsett* v. *West*[6] it was held (headnotes):

"(1) It was well established that in a claim under the 1934 Act the deceased's estate was entitled to damages on account of his anticipated earnings in the lost years, but that loss was not to be awarded in full since the cost of the deceased's own living expenses and pleasures were to be deducted from his earnings before arriving at a surplus as a basis for the calculation of damages. Furthermore, where the court was considering a claim for the lost years in respect of a single man (particularly if he was without dependants), the surplus would be very much smaller than that of a married man since, without a wife or children to provide for, most of a single man's income would be devoted to his own maintenance and enjoyment and all that would remain would be that which he either would have saved or would have spent on or given to others.

(2) The surplus was to be calculated on the assumption that the deceased would have remained single during the lost years, except in so far as there were compelling reasons to do otherwise. While each case depended on its own facts, it was to be borne in mind that a single man's surplus was generally treated as a low percentage of lost income. Any increase to take account of the likelihood that the deceased would have married would be very modest, having regard to the fact that to predict the financial circumstances of the deceased in the event of his marriage would involve a high degree of speculation.

(3) When calculating damages for loss of income in the lost years, earned income was to be distinguished from income yielded from capital of which the deceased died possessed because, whereas the deceased's earning capacity died with him, his capital and his ability to yield income survived. Where the deceased died possessed of both an earning capacity and capital, the damages, if any, to be awarded for loss of the surplus in the lost years would only be such as would be required to provide for the balance of his surplus over the income yielded by the capital which survived him. Further, since the award of damages was to be made in one sum, the court had to strike a balance once and for all, rather than year by year, and any excess of such investment income over the surplus in one was to be used to offset any deficiency in another year.

(4) Since there was no difference in principle between the loss of the prospect of earnings from work in the lost years and the loss of the prospect of income from an inheritance likely to be acquired, the loss of the prospect of the inheritance would be taken into account with moderation.

(5) On the assumption that the deceased was to be regarded as a single man throughout the lost years the appropriate surplus during that period was 15%. However, in all the circumstances it was proper to increase the surplus to 25% to take account of the likelihood that the deceased would have married."

These three cases show that the tendency of the English Courts is to take a percentage. I think that is a proper method rather than working on figures for each item as suggested by the first plaintiff with no evidence to substantiate such deductions.

Following the English cases 15% can justifiably, on the facts of our case, be adopted as representing the surplus income but because CPF has to be taken into account the amount of surplus income is increased by the possibility of the CPF being utilised. In my view in our present case 20% would be appropriate.

I now come to deal with the multiplier. The first plaintiff submits that the proper multiplier to be used in this case should be the straight multiplier of 20. In view of all the uncertainties and the authorities cited by the second defendant I think that the proper multiplier is 11 years.

The method of calculation proposed by Mr. Christopher Lau, counsel for the second defendant, is the one which commends itself to me. I base my award on that calculation. The calculation is

appended to this judgment.

I award the sum of $125,000 to the first plaintiff for the lost years.

In the result there will be damages for the first plaintiff for the funeral expenses of $3,000, $6,500 for loss of expectation of life and $125,000 for lost years. And for the second plaintiff damages of $600 for the loss of the use of the car.

The plaintiffs also claim interest. I am of the view that on principle no interest should be awarded on damages in running down cases, following the case of *Ban Pet Hock* v. *Ong Ah Ho.*[7]

As regards the special damages, I am of the view that no interest ought to be awarded. The defendants have not delayed in any way in the conduct of this case. Moreover the first plaintiff's claim of $7,257 for funeral expenses and the second plaintiff's claim of $1,575 for the loss of the use of his car are excessive. The amounts claimed are double the amounts eventually agreed.

Order accordingly.

APPENDIX

DAMAGES FOR "LOST YEARS"

Formula for Annual Multiplier =
Probable Earnings – Tax Element + Employer's CPF

EARNINGS AT REGISTRAR'S LEVEL

Monthly Salary of Registrar (Bundle B-4)	$ 3,275.00 p.m.
NWC Element (Bundle B-4)	$ 493.48 p.m.
Monthly Salary including NWC wage supplements (Bundle B-4)	$ 3,768.48 p.m.
Gross earnings per annum (including 13 month payment)	$ 3,768.48 x 13)
	= $48,990.24

TAX ELEMENT

Annual Gross Income (exclusive of Employers' CPF)	$48,990.24
Deductions:	
– Personal Relief	$ 3,000.00
– Employees' CPF @ 25%	$11,497.56
– Total Deductions	$14,497.56
Total Annual Taxable Income	$34,492.68
Tax on 1st $25,000	$ 2,750.00
Tax on balance $9,492.68 @ 21%	$ 1,993.46
ANNUAL TAX PAYABLE	$ 4,743.46

EMPLOYEES' CPF

Employers' CPF is 25% of Earnings

Therefore Annual Employers' CPF on $48,990.24 @ 25% $ 12,247.56

MULTIPLICAND AT REGISTRAR'S LEVEL

Annual Multiplicand = Probable Earnings – Tax Element + Employers' CPF

= $48,990.24 – $4,743.46 + $12,247.56

= $56,494.34

MULTIPLIER 11

IN ALL, LOST YEARS ASSESSED AS AT REGISTRAR'S LEVEL

Annual Multiplicand	$ 56,494.34
At 11 years' straight multiplier	$621,437.74

Annual Damages 20%

= 20% (Annual Multiplicand x Multiplier)
= 20% ($56,494.34 x 11)
= 20% (621,437.74)
= $124,287.54

TOTAL would be $125,000.00 (rounded up)

Solicitors: *Lee & Lim; Khattar Wong & Partners, Cooma Lau & Loh & M. Karthigesu.*

SHANMUGAM NAGAIAH & ANOR. v. SIVAKOLUNTHU KUMARASAMY & TRUSTEES OF RAMAKRISHNA MISSION BOYS' HOME – Interested Party

[O.C.J. (Chua J.) October 29, 1985]

[Singapore – Originating Summons No. 673 of 1984]

Land Law – Joint tenancy – Order of Court that matrimonial property be sold and proceeds be equally divided – Death of husband before sale made – Whether joint tenancy severed – Whether Order could be varied.